

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

TYREE DUANE HARRIS,  
Petitioner,

3:09-CV-01190-ST  
ORDER

v.

BRIAN BELLEQUE,  
Respondent.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#84) on March 15, 2013, in which she recommended the Court grant Petitioner Tyree Duane Harris's First Amended Petition (#33) for Habeas Corpus Relief Pursuant to 28 U.S.C. § 2254 and remand this matter to the State of Oregon for resentencing with an instruction that Petitioner's dangerous offender sentence on Count 6 is vacated unless the State

resentences Petitioner as a dangerous offender within 90 days. Respondent filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988). The Court has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#84), **GRANTS** the First Amended Petition (#33) for Habeas Corpus Relief Pursuant to 28 U.S.C. § 2254, and **REMANDS** this matter to the State of Oregon for resentencing with an instruction that Petitioner's dangerous offender sentence on Count 6 is vacated unless the State resentences Petitioner as a

dangerous offender within **90 days of the date of this Order.**

IT IS SO ORDERED.

DATED this 10<sup>th</sup> day of June, 2013.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge